

jensen117

1

2

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

3

4

5

THE UNITED STATES OF AMERICA, )  
EX REL., ANDREW M. GARNER, III, )  
6 AND ANDREW M. GARNER, III, )  
INDIVIDUALLY, )

7

Plaintiffs, )

8

-vs- )

9

ANTHEM INSURANCE COMPANIES, ET )  
10 AL., )

CIVIL ACTION NO.  
1:00CV463

11

Defendants. )

12

13

14

DEPOSITION OF MICHAEL E. JENSEN

15

16 The deposition upon oral examination of  
MICHAEL E. JENSEN, a witness produced and sworn  
before me, Tamara J. Brown, CSR, RMR, CRR, Notary  
17 Public in and for the County of Marion, State of  
Indiana, taken on behalf of the Plaintiffs, at the  
18 offices of Baker & Daniels, 300 North Meridian  
Street, Indianapolis, Marion County, Indiana, on the  
19 7th day of November, 2005, pursuant to the Federal  
Rules of Civil Procedure with written notice as to  
20 time and place thereof.

21

22

Connor + Associates, Inc.  
1650 One American Square  
Indianapolis, IN 46282  
24 (317)236-6022

25

2

1

A P P E A R A N C E S

2

FOR THE PLAINTIFF(S):

3

Mr. Timothy Keller  
ASCHEMANN KELLER, LLC

Page 1

EXHIBIT

F

jensen117

15 other?

16 A No.

17 Q Did you think it was appropriate?

18 A I didn't speculate on that.

19 Q Were you aware that Mr. Garner, in 1998, had  
20 alleged through his attorney that he had relayed  
21 compliance issues to you and you had failed to  
22 act upon them?

23 A No.

24 Q I'm handing you what has been marked as  
25 Plaintiff's Exhibit 20, and I'd ask that you

150

R O U G H D R A F T

1 take a look at it.

2 (Plaintiff's Exhibit Number was  
3 marked for identification.)

4 A Okay.

5 Q Have you ever seen this document before?

6 A This was one of the documents that I saw a week  
7 ago at Mr. Dyer's office.

8 Q Prior to that time, Mr. Jensen, do you recall  
9 ever seeing this document?

10 A No.

11 Q Now that we've went through the deposition, do  
12 you recall, or we're proceeding with the  
13 deposition, do you recall seeing any other  
14 documents beyond what you have listed previously  
15 that you have reviewed in preparation for this  
16 deposition?

17 A I'm sorry, I can't remember the extent of the  
18 documents that I reviewed at Mr. Dyer's office  
19 last week.

jensen117

20 Q Do you ever recall Mr. Garner expressing concern  
21 to you about the allocation of expenses relating  
22 to the Federal Dental Blue product?

23 A No, I don't.

24 Q Do you know what the Federal Dental Blue project  
25 was?

151

R O U G H D R A F T

1 A Yes.

2 Q What was it?

3 A It was a program to provide dental benefits to  
4 Federal Employee Program in the state of  
5 Kentucky and it enrolled a small amount of our  
6 membership in Kentucky.

7 Q Was there a private component to the FDB?

8 A I'm not sure what you mean.

9 Q Was there, could a member purchase a an enhanced  
10 benefit under the, that was sold by Anthem, to  
11 expand the amount of dental care beyond what was  
12 offered in connection with the FEP program?

13 A Yes.

14 Q Do you recall who serviced that product line in  
15 1997 and 1998?

16 A I think that was done by Delta Dental.

17 Q What about the marketing of that product?

18 A I think information would have been provided by  
19 that product by the field service reps in  
20 Kentucky along with their FEP information.

21 Q Would that include Theresa Weed?

22 A I'm not sure exactly of the timing but at one  
23 time point in time Theresa Weed was a field  
24 service rep in Kentucky.

jensen117

25 Q was there a separate cost center that marketing 152

R O U G H D R A F T

1 reps in Kentucky utilized to expense separately  
2 the marketing expenses associated with this  
3 private product?

4 A No, there was not a separate cost center but we  
5 made several allowances to allow for the  
6 separation of federal dental Plu from their reg  
7 FEP work.

8 Q Can you explain that, what type allowances?

9 A When I was still in the financial area, national  
10 accounts finance working FEP at Governor's Hill  
11 in Cincinnati we were sufficient to control and  
12 performance review which was a regularly  
13 schedule review process the FEP director's  
14 office conducts.

15 As part of that process they brought to my  
16 attention that costs for Federal Dental Blue had  
17 been included in earlier years in our cost  
18 filings for the service benefit plan in  
19 Kentucky.

20 Subsequent to Frank Ray, the doctor's  
21 office -- R-A-Y-O, when Frank brought that to my  
22 attention we created a prior period adjustment  
23 to return part of the money that had been  
24 charged to the service benefit plan in Kentucky  
25 to OPM, to the doctor's office to OPM and then 153

R O U G H D R A F T

1 made subsequent allowances since that time,  
2 either on a membership allocation basis or

jensen117  
3 actually created a time sheet where the field  
4 service reps could mark off what portion of  
5 their day was sent to, spent on Federal Dental  
6 Blue.

7 Q When was this audit with Frank?

8 A Frank Rayo?

9 Q Rayo.

10 MR. DYER: Objection, misstates his  
11 testimony. Could we hear the question back,  
12 please?

13 MR. KELLER: Let me rephrase the question.

14 Q when did the discussion with Frank Rayo occur?

15 A I believe that occurred in 1996 because I was  
16 still out at Governor's Hill at the time I  
17 remember working with Frank out at Governor's  
18 Hill.

19 Q When were the separate time sheets instituted?

20 A In 1997.

21 Q The separate time sheets for the marketing  
22 representatives instituted?

23 A In 1997.

24 Q Was this ever an issue that Mr. Garner discussed  
25 with you?

154

R O U G H     D R A F T

1 A Not that I can recall.

2 Q The Kentucky marketing representatives were his  
3 subordinates; were they not?

4 A At a certain point of time they began reporting  
5 to him, before the merger they reported to  
6 Nanette Hayes in Indiana and then for a certain  
7 time after the merger they continued to report



25 A I think that conclusion could be drawn but I'm

155

12 A At the time of the audit, this control and

13 performance review, I <sup>jensen117</sup>guess was the correct  
14 name, I was a senior financial analyst working  
15 for our National Business Division and  
16 participated in that control and performance  
17 review in that capacity, and any findings of  
18 that I would have made my boss aware, Jan Hakes,  
19 and that was how the communication would have  
20 taken place to Kathy Hinkle on any findings from  
21 that report.

22 Q Turning back to Plaintiff's Exhibit 20,  
23 Mr. Jensen, I would like to draw your attention  
24 to the second paragraph paragraph.

25 A Yes.

156

R O U G H D R A F T

1 Q Have you reviewed that paragraph?

2 A Yes.

3 Q Do you recall whether or not Mr. Garner had  
4 discussions with you one week prior to his  
5 termination regarding disclosing improprieties  
6 that he believed occurred?

7 A That discussion did not occur. That did not  
8 occur.

9 Q Mr. Jensen, a lot of the questions that we've  
10 had today and your responses have rightfully  
11 reflected the passage of time and your  
12 difficulty recalling specifics; would that be a  
13 fair statement?

14 A I think there's a mixture of specifics I have  
15 been able to recall and some things that I do  
16 not recall. So I can't say that you could  
17 characterize it one way or the other.